©
Government of Kerala
1985

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Monday, 15th April 1985 / 25th Chaithra 1907 [No. 315

GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 3200/Leg. B1/85/Law *Dated, Trivandrum,* 15*th April,* 1985/ 25*th Chaithra,* 1907.

The following Ordinance promulgated by the Governor on the 15th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. Mathai,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1535/MC

ORDINANCE No. 8 OF 1985

THE KERALA PRIVATE FORESTS (VESTING AND ASSIGNMENT) AMENDMENT ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Private Forests (Vesting and Assignment) Act, 1971.

Preamble.—WHEREAS a large number of applications filed before the Tribunals under section 8 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 have been decided in favour of the applicants either on the basis of concessions made before the Tribunals without the authority in writing of the Custodian or the Government or due to the failure to produce relevant data and other particulars before such Tribunals;

AND WHEREAS in a large number of cases appeals have not been preferred before the High Court against such decisions of the Tribunals by reason of the delay in applying for and obtaining the certified copies of those decisions or on the ground that the decisions were made on the basis of concessions made before the Tribunals or on other grounds;

AND WHEREAS a large number of appeals filed by the Government before the High Court under section 8A of the said Act have been dismissed by that Court either on the basis of concessions made before the Court without the authority in writing of the Government or due to the failure to produce relevant data and other particulars before the said Court;

AND WHEREAS petitions by the Government for special leave to appeal against the orders of the High Court under section 8A of the said Act have been dismissed by the Supreme Court;

AND WHEREAS a large number of the judgments and orders of the High Court in writ petitions or other proceedings relate to private forests vested in the Government and such judgments and orders have been passed due to suppression or misrepresentation of facts or due to failure to produce relevant data and other particulars before the said Court;

AND WHEREAS possession of large extent of private forests or lands comprised in private forests which have vested in the Government under the said Act are liable to be restored by the Custodian to the persons who were owners thereof immediately preceding the commencement of that Act, resulting in great loss to the State and detriment to the public interest;

AND WHEREAS the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1983 (39 of 1983) was promulgated by the Governor of Kerala on the 18th day of November, 1983;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (17 of 1984) was promulgated by the Governor of Kerala on the 16th day of February, 1984;

AND WHEREAS a Bill to replace Ordinance 17 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 17 of 1984, the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (32 of 1984) was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 32 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 32 of 1984, the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (50 of 1984) was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 50 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 50 of 1984, the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (95 of 1984) was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 95 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 95 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1985.

(2) It shall be deemed to have come into force on the 19th day of November, 1983.

2. *Act* 26 *of* 1971, *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Insertion of new sections 8B, 8C and 8D.*—After section 8A of the principal Act, the following sections shall be inserted, namely:—

"8B. *Power of Custodian to apply for review of decisions of Tribunal.*—(1) Notwithstanding anything contained in this Act or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Custodian may, if he is satisfied that any decision of the Tribunal under section 8 requires to be reviewed on the ground that such decision has been made on the basis of concessions made before the Tribunal without the authority in writing of the Custodian or the Government or due to the failure to produce relevant data or other particulars before the Tribunal or that an appeal against such decision could not be filed by reason of the delay in applying for and obtaining a certified copy of such decision, make an application to the Tribunal within a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1985, for review of such decision.

(2) An application under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On receipt of an application under sub-section (1), the Tribunal shall, notwithstanding anything contained in this Act or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, review its decision and pass such orders as it may think fit.

8C. *Power of Government to file appeal or application for review in certain cases.*—(1) Notwithstanding anything contained in this Act, or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Government, if they are satisfied that any decision of the Tribunal under section 8 has been made on the basis of concessions made before the Tribunal without the authority in writing of the Custodian or the Government or due to the failure to produce relevant data or other particulars before the Tribunal or that an appeal against such decision could not be filed by reason of the delay in applying for and obtaining a certified copy of such decision, may, within a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1985, appeal against such decision to the High Court.

(2) Notwithstanding anything contained in this Act, or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Government, if they are satisfied that any order of the High Court in an appeal under section 8A (including an order against which an appeal to the Supreme Court has not been admitted by that Court) has been passed on the basis of concessions made before the High Court without the authority in writing of the Government or due to the failure to produce relevant data or other particulars before the High Court or that an appeal against such order could not be filed before the Supreme Court by reason of the delay in applying for and obtaining a certified copy of such order, may, within a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1985, make an application to the High Court for review of such order.

(3) Notwithstanding anything contained in this Act or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Government, if they are satisfied that any judgment or order [other than an order referred to in sub-section (2)] passed by the High Court in any proceeding, relates to any land which is a private forest and that such judgment or order has been passed due to suppression or misrepresentation of facts or due to the failure to produce relevant data or other particulars

or that an appeal against such judgment or order could not be filed by reason of the delay in applying for and obtaining a certified copy of such judgment or order, may, within six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1985, make an application to the High Court for review of such judgment or order.

(4) An appeal under sub-section (1) or an application under sub-section (2) or sub-section (3), shall be in the prescribed form and shall be verified in the prescribed manner.

(5) On receipt of an appeal under sub-section (1) or an application under sub-section (2), or sub-section (3), the High Court may, notwithstanding anything contained in this Act, or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, after giving a reasonable opportunity to the parties to be heard either in person or by representative, pass such orders thereon as it may think fit.

8D. *Decisions and orders liable to be reviewed or appealed against to be stayed.*—Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court or other authority,—

(a) any decision of the Tribunal referred to in sub-section (1) of section 8B or in sub-section (1) of section 8C;

(b) any order of the High Court referred to in sub-section (2) of section 8C;

(c) any judgment or order of the High Court referred to in sub-section (3) of section 8C; and

(d) any proceedings in pursuance of any such judgment, decision or order,

shall stand stayed for a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1985, or, if an application for review of such judgment, decision or order is made under sub-section (1) of section 8B or under sub-section (2) or sub-section (3) of section 8C, as the case may be, or an appeal against such decision is filed under sub-section (1) of section 8C, before the expiry of the said period of six months, till the disposal of such application or appeal, as the case may be.".

4. *Repeal and saving.*—(1) The Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (95 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Government of Kerala
1985

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Monday, 15th April 1985 / 25th Chaithra 1907 [No. 316

GOVERNMENT OF KERALA

Taxes (G) Department

NOTIFICATIONS

I

G. O. (MS) No. 31/85/TD. *Dated, Trivandrum, 15th April,* 1985.

S. R. O. No. 516/85.—In exercise of the powers conferred by sections 24 and 29 of the Abkari Act, I of 1077, the Government of Kerala hereby make the following rules further to amend the Kerala Distillery and Warehouse Rules, 1968, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Distillery and Warehouse (Amendment) Rules, 1985.

(2) They shall be deemed to have come into force on the 1st day of April, 1985.

2. *Amendment of the rules.*—In part I of the Kerala Distillery and Warehouse Rules, 1968, in clause (b) of sub-rule (1), of rule 47, the words, brackets and figures "or to the warehouse licensed under Foreign Liquor (Storage in Bond) Rules, 1961" shall be omitted.

33/1536/MC.

Explanatory Note

(This is not part of the notification but is intended to indicate its general purport).

Prior to the formation of the Beverages Corporation, the Distilleries/Breweries/Wineries within the State were collecting and remitting the sales-tax at the first sale point including excise duty. But this system has been discontinued with effect from 1-4-1984, consequent on the formation of the Corporation. Now Government want to restore the old position with effect from 1-4-1985.

This amendment is intended to achieve the above object.

II

G.O. (MS) No. 32/85/TD. *Dated, Trivandrum, 15th April,* 1985.

S. R. O. No. 517/85.—In exercise of the powers conferred by sections 24 and 29 of the Abkari Act, 1 of 1077, the Government of Kerala hereby make the following rules further to amend the Brewery Rules, 1967, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Brewery (Amendment) Rules, 1985.

(2) They shall be deemed to have come into force on the 1st day of April, 1985.

2. *Amendment of the rules.*—In part II of the Brewery Rules, 1967, for sub-rule (4) of rule 25, the following sub-rule shall be substituted, namely:—

"(4) Ordinarily beer shall be issued from the brewery within the State only to those who possess a licence in Form, FL9, under the Foreign Liquor Rules, provided that the Commissioner may, at his discretion allow the brewer to issue beer to other persons also. Bottled beer alone shall be issued from the brewery".

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport).

Prior to the formation of the Beverages Corporation the Distilleries/Breweries/Wineries within the State were collecting and remitting the sales-tax at the first sale point including excise duty. But this system has been discontinued with effect from 1-4-1984, consequent on the formation of the Corporation. Now Government want to restore the old position with effect from 1-4-1985.

This amendment is intended to achieve the above object.

III

G. O. (MS) No. 33/85/TD. *Dated, Trivandrum, 15th April,* 1985.

S. R. O. No. 518/85.—In exercise of the powers conferred by sections 18A, 24 and 29 of the Abkari Act, 1 of 1077, the Government of Kerala hereby make the following rules further to amend the Foreign Liquor Rules, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Foreign Liquor (Amendment) Rules, 1985.

(2) They shall be deemed to have come into force on the 1st day of April, 1985.

2. *Amendment of the rules.*—In the Foreign Liquor Rules, for sub-rule 9 of rule 13, the following sub-rule shall be substituted, namely:—

"9. *Licence for possession and supply of foreign liquor in wholesale by the FL9 licensee to foreign liquor wholesale shop licensees (FL1) in the State.*—Licence in Form FL9 shall be issued by the Excise Commissioner, on payment of an annual rental of Rs. 20,000. The licensee under this licence may also procure duty paid Indian made foreign liquor from the distilleries, breweries, compounding, blending and bottling units and FL10 licensees operating in the State".

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport).

The Beverages Corporation has intimated that they are not in need of the Bonded Warehouses from 1st April 1985. Hence Government have decided to stop the Bonded Warehouse system. This amendment is intended to achieve the above object.

IV

G.O. (MS) No. 34/85/TD. *Dated, Trivandrum, 15th April,* 1985.

S. R. O. No. 519/85.—In exercise of the powers conferred by section 29 of the Abkari Act, 1 of 1077, the Government of Kerala hereby make the following rules further to amend the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975, namely:—

RULES

1. *Short title and commencement.*—(i) These rules may be called the Kerala Foreign Liquor (Compounding, Blending and Bottling) Amendment Rules, 1985.

(ii) They shall be deemed to have come into force on the 1st day of April 1985.

2. *Amendment of the rules.*—In the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975, for clause (1) of sub-rule (1) of rule 11, the following clause shall be substituted, namely:—

"(i) underbond for export; or"

Explanatory Note

(This is not part of the notification but is intended to indicate its general purport).

Prior to the formation of the Beverages Corporation the Distilleries/Breweries/Wineries within the State were collecting and remitting the sales-tax at the first sale point including excise duty. But this system has been discontinued with effect from 1-4-1984, consequent on the formation of the Corporation. Now Government want to restore the old position with effect from 1-4-1985.

This amendment is intended to achieve the above object.

V

G. O. MS. No. 35/85/TD. *Dated, Trivandrum, 15th April,* 1985.

S. R. O. No. 520/85.—In exercise of the powers conferred by sections 14 and 29 of the Abkari Act, 1 of 1077, the Government of Kerala hereby make the following rules further to amend the Foreign Liquor (Storage in Bond) Rules, 1961, namely:—

RULES

1. *Short title and commencement.*—(i) These Rules may be called the Foreign Liquor (Storage in Bond) Amendment Rules, 1985.

(ii) They shall be deemed to have come into force on the 1st day of April, 1985.

2. *Amendment of the rules.*—In the Foreign Liquor (Storage in Bond) Rules, 1961, in the opening paragraph for the words "manufactured in Kerala or elsewhere", the words "manufactured elsewhere" shall be substituted.

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport).

Prior to the formation of the Beverages Corporation the Distilleries/Breweries/Wineries within the State were collecting and remitting the sales-tax at the first sale point including excise duty. But this system has been discontinued with effect from 1-4-1984, consequent on the formation of the Corporation. Now Government want to restore the old position with effect from 1-4-1985.

This amendment is intended to achieve the above object.

By order of the Governor,
M. VIJAYANUNNI,
Special Secretary to Government.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Monday, 15th April 1985 / 25th Chaithra 1907 [No. 318

GOVERNMENT OF KERALA

Home (SS.A) Department

NOTIFICATION

No. 51618/SSA2/83/Home. *Dated, Trivandrum, 6th April,* 1985.

S. R. O. No. 521/85.—In exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), the Government of Kerala hereby make the following further amendment to the Notification No. 51618/SSA2/83/Home dated the 8th July, 1983, published as S.R.O. No. 857/83 in the Kerala Gazette Extraordinary No. 706 dated the 8th July, 1983, appointing a Commission of Inquiry consisting of Sri P. Narayana Pillai, Retired Judge, High Court of Kerala, to enquire into the circumstances which led to the death of three persons due to firing by the police on the 6th July, 1983, at Pulpally and Mullankolly Villages in Wynad District, namely:—

AMENDMENT

In the said Notification, in the fourth paragraph, for the words "within twenty-one months" the words "within twenty-seven months" shall be substituted.

By order of the Governor,

N. KALEESWARAN,

Commissioner & Secretary to Government.

33/1538/MC.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

The term of the Commission appointed to enquire into the circumstances which led to the death of three persons due to firing by the police on the 6th July, 1983 at Pulpally and Mullankolly Villages in Wynad District is due to expire on 7-4-1985. Government proposes to extend the term of the Commission for a further period of six months from 8-4-1985. This notification is to achieve the above object.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

Reg. No, KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Monday, 15th April 1985 / 25th Chaithra 1907 [No. 319

GOVERNMENT OF KERALA

Health (G) Department

ERRATUM

No. 15065/G3/85/HD. *Dated, Trivandrum, 6th April,* 1985.

In the Notification No. 71007/G3/84/HD (i) dated the 7th January, 1985, published as S.R.O. No. 104/85 in the Kerala Gazette Extraordinary No. 45 dated the 15th January, 1985, and in the Notification No. 71007/G3/84, HD (ii) dated the 7th January, 1985, published as S.R.O. No. 105/85 in the Kerala Gazette Extraordinary No. 45 dated the 15th January, 1985 for the words "Sri Marthanda Varma Thampuran", read the words and letter "Sri K. Marthanda Varma Thampuran".

By order of the Governor,

M. G. K. Murthy,

Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1539/MC.